

Federal Communications Commission

§ 1.773

citizenship of officers if a corporation; a description of the submarine cable, including the type and number of channels and the capacity thereof; the location of points on the shore of the United States and in foreign countries where cable will land (including a map); the proposed use, need, and desirability of the cable; and such other information that as may be necessary to enable the Commission to act thereon. A separate application shall be filed with respect to each individual cable system for which a license is requested, or for which modification or amendment of a previous license is requested.

* * * * *

TARIFFS

§ 1.771 Filing.

Schedules of charges, and classifications, practices, and regulations affecting such charges, required under section 203 of the Communications Act shall be constructed, filed, and posted in accordance with and subject to the requirements of part 61 of this chapter.

§ 1.772 Application for special tariff permission.

Applications under section 203 of the Communications Act for special tariff permission shall be made in the form and manner, with the number of copies set out in part 61 of this chapter.

[52 FR 5289, Feb. 20, 1987]

§ 1.773 Petitions for suspension or rejection of new tariff filings.

(a) *Petition*—(1) *Content*. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing or any provision thereof shall specify the filing's Federal Communications Commission tariff number and carrier transmittal number, the items against which protest is made, and the specific reasons why the protested tariff filing warrants investigation, suspension, or rejection under the Communications Act. No petition shall include a prayer that it also be considered a formal complaint. Any formal complaint shall be filed as a separate pleading as provided in § 1.721.

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing or any provision of such a publication, must specify the pertinent Federal Communications

Commission tariff number and carrier transmittal number; the matters protested; and the specific reasons why the tariff warrants investigation, suspension, or rejection. When a single petition asks for more than one form of relief, it must separately and distinctly plead and support each form of relief. However, no petition may ask that it also be considered a formal complaint. Formal complaints must be separately lodged, as provided in § 1.721.

(ii) For purposes of this section, tariff filings by nondominant carriers will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition requesting suspension shows:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the harm alleged to competition would be more substantial than the injury to the public arising from the unavailability of the service pursuant to the rates and conditions proposed in the tariff filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(iii) For the purpose of this section, any tariff filing by a local exchange carrier filed pursuant to the requirements of § 61.39 will be considered *prima facie* lawful and will not be suspended by the Commission unless the petition requesting suspension shows that the cost and demand studies or average schedule information was not provided upon reasonable request. If such a showing is not made, then the filing will be considered *prima facie* lawful and will not be suspended by the Commission unless the petition requesting suspension shows each of the following:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That any unreasonable rate would not be corrected in a subsequent filing;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(iv) For the purposes of this section, tariff filings made pursuant to §61.49(b) by carriers subject to price cap regulation will be considered *prima facie* lawful, and will not be suspended by the Commission unless the petition shows that the support information required in §61.49(b) was not provided, or unless the petition requesting suspension shows each of the following:

(A) That there is a high probability the tariff would be found unlawful after investigation;

(B) That the suspension would not substantially harm other interested parties;

(C) That irreparable injury will result if the tariff filing is not suspended; and

(D) That the suspension would not otherwise be contrary to the public interest.

(2) *When filed.* All petitions seeking investigation, suspension, or rejection of a new or revised tariff filing shall meet the filing requirements of this paragraph. In case of emergency and within the time limits provided, a telegraphic request for such relief may be sent to the Commission setting forth succinctly the substance of the matters required by paragraph (a)(1) of this section. A copy of any such telegraphic request shall be sent simultaneously to the Chief, Common Carrier Bureau, the Chief, Tariff Division, and the publishing carrier. Thereafter, the request shall be confirmed by petition filed and served in accordance with §1.773(a)(4).

(i) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within 6 days after the date of the tariff filing.

(ii) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 15 but less than 30 days notice shall be filed and served within 7 days after the date of the tariff filing.

(iii) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 30 but less than 90 days notice shall be

filed and served within 15 days after the date of the tariff filing.

(iv) Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 90 or more days notice shall be filed and served within 25 days after the date of the tariff filing.

(3) *Computation of time.* Intermediate holidays shall be counted in determining the above filing dates. If the date for filing the petition falls on a holiday, the petition shall be filed on the next succeeding business day.

(4) *Copies, service.* An original and four copies of each petition shall be filed with the Commission, as follows: the original and three copies must be filed with the Secretary, FCC, room 222, 1919 M Street, NW., Washington, DC 20554; one copy must be delivered directly to the Commission's Copy Contractor, room 246, 1919 M Street, NW., Washington, DC 20554. Additional, separate copies shall be served simultaneously upon the Chief, Common Carrier Bureau; and the Chief, Tariff Division. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be served either personally or via facsimile on the filing carrier. If a petition is served via facsimile, a copy of the petition must also be sent to the filing carrier via first class mail on the same day of the facsimile transmission. Petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 15 or more days notice may be served on the filing carrier by mail.

(b) *Reply*—(1) *When filed.* A publishing carrier's reply to a petition for relief from a tariff filing shall be filed in accordance with the following periods:

(i) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice shall be filed and served within 3 days after the date the petition is due to be filed with the Commission.

(ii) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 15 but less than 30 days notice shall be filed and served within 4 days after service of the petition.

(iii) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on at least 30 but less than 90 days notice shall be filed and served within 5 days after service of the petition.

(iv) Replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 90 or more days notice shall be filed and served within 8 days after service of the petition.

(v) Where all petitions against a tariff filing have not been filed on the same day, the publishing carrier may file a consolidated reply to all the petitions. The time for filing such a consolidated reply will begin to run on the last date for timely filed petitions, as fixed by paragraphs (a)(2) (i) through (iv) of this section, and the date on which the consolidated reply is due will be governed by paragraphs (b)(1) (i) through (iv) of this section.

(2) *Computation of time.* Intermediate holidays shall be counted in determining the 3-day filing date for replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on less than 15 days notice. Intermediate holidays shall not be counted in determining filing dates for replies to petitions seeking investigation, suspension, or rejection of a new or revised tariff filing made on 15 or more days notice. When a petition is permitted to be served upon the filing carrier by mail, an additional 3 days (counting holidays) may be allowed for filing the reply. If the date for filing the reply falls on a holiday, the reply may be filed on the next succeeding business day.

(3) *Copies, service.* An original and four copies of each reply shall be filed with the Commission, as follows: The original and three copies must be filed with the Secretary, FCC, room 222, 1919 M Street, NW., Washington, DC 20554; one copy must be delivered directly to the Commission's Copy Contractor, room 246, 1919 M Street, NW., Washington, DC 20554. Additional, separate copies shall be served simultaneously upon the Chief, Common Carrier Bureau; the Chief, Tariff Division; and the petitioner. Replies may be served upon pe-

titioner personally, by mail or via facsimile.

[45 FR 64190, Sept. 29, 1980, as amended at 49 FR 40876, Oct. 18, 1984; 49 FR 49466, Dec. 20, 1984; 52 FR 26682, July 16, 1987; 54 FR 19840, May 8, 1989; 58 FR 17529, Apr. 5, 1993; 58 FR 51247, Oct. 1, 1993]

CONTRACTS, REPORTS, AND REQUESTS REQUIRED TO BE FILED BY CARRIERS

§ 1.781 Requests for extension of filing time.

Requests for extension of time within which to file contracts, reports, and requests referred to in §§ 1.783 through 1.814 shall be made in writing and may be granted for good cause shown.

CONTRACTS

§ 1.783 Filing.

Copies of carrier contracts, agreements, concessions, licenses, authorizations or other arrangements, shall be filed as required by part 43 of this chapter.

FINANCIAL AND ACCOUNTING REPORTS AND REQUESTS

§ 1.785 Annual financial reports.

(a) An annual financial report shall be filed by telephone carriers and affiliates as required by part 43 of this chapter on form M.

(b) Verified copies of annual reports filed with the Securities and Exchange Commission on its Form 10-K, Form 1-MD, or such other form as may be prescribed by that Commission for filing of equivalent information, shall be filed annually with this Commission by each person directly or indirectly controlling any communications common carrier in accordance with part 43 of this chapter.

(c) Carriers having separate departments or divisions for carrier and non-carrier operations shall file separate supplemental annual reports with respect to such carrier and non-carrier operations in accordance with part 43 of this chapter.

[28 FR 12450, Nov. 22, 1963, as amended at 31 FR 747, Jan. 20, 1966; 47 FR 50697, Nov. 9, 1982; 49 FR 36503, Sept. 18, 1984; 50 FR 41152, Oct. 9, 1985; 58 FR 36143, July 6, 1993]